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NEWS FROM CONGRESS

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Levin, Stabenow, Upton Express Concerns with Proposed Kalamazoo River Superfund Settlement

WASHINGTON - U.S. Senator Carl Levin (D-MI), U.S. Senator Debbie Stabenow (D-MI), and U.S. Representative Fred Upton (R-MI) today expressed their deep concerns with the Department of Justice's (DOJ) proposed settlement for the Kalamazoo River Superfund site. The \$162 million settlement negotiated between the DOJ and Lyondell falls well short of what is necessary to remove harmful PCBs from the Kalamazoo River and Allied Landfill.

"I am committed to the full cleanup of the Kalamazoo River Superfund project, which is the largest in the state of Michigan," said Levin. "I don't think Lyondell Chemical Company should be allowed to reorganize in bankruptcy in a way that allows them to shed 90 percent of their environmental responsibility."

"While I'm pleased that the EPA is moving forward with their efforts to clean up the Kalamazoo River Superfund site, I have serious concerns about the proposed settlement agreement with Lyondell," said Stabenow. "I will be working with Congressman Upton and Senator Levin to make sure the community's concerns are heard and to understand how this settlement agreement fits into the larger plan to ensure the full cleanup of this site."

"For two decades, the Kalamazoo River cleanup has been of utmost priority, and now, at the eleventh hour, it seems that those responsible will be let off the hook with the community left holding the tab," said Upton. "The community's best interests must remain foremost in the clean-up effort, and the proposed settlement is clearly lacking."

The full text of the letter to the Department of Justice is below:

Re. Public Comment - Lyondell Chemical Company, et al., D.J. Ref. 90-5-2-1-2132/3

Dear Assistant Attorney General Moreno:

We write today to express our concern regarding the recent proposed settlement related to Lyondell/Basell's environmental cleanup obligations. The proposed settlement of \$162 million falls far short of the \$5 billion the Environmental Protection Agency (EPA) has required the company to pay to remediate its environmental obligations. More specifically, the settlement allocates only \$103 million for Lyondell/Basell's share of the cleanup of the Kalamazoo River Superfund site; a sum the company estimated in court documents to be as high as \$2.5 billion. While we understand that bankruptcy

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proceedings often leave creditors with a fraction of what they are owed by the debtor, we find it unacceptable that a company that will emerge from bankruptcy as a profitable entity can only pay pennies on the dollar of its obligation to clean up the Kalamazoo site. In addition to the statutory creditors standard to a bankruptcy proceeding, an environmental cleanup project also encompasses thousands of individuals and families that, although not direct parties to this proceeding, are truly creditors in every sense of the word as their health and quality of life depends on this cleanup.

The Allied Paper/Portage Creek/Kalamazoo River site is one of the largest Superfund sites in the United States and has been reported to be the fourth largest contributor of Polychlorinated Biphenyls (PCBs) to Lake Michigan. Since it was deemed a Superfund site in 1990, its cleanup has been a top priority of the people in Southwest Michigan. The EPA, Michigan Department of Natural Resources and Environment (MDNRE), the two Potentially Responsible Parties (PRPs), local community groups and elected officials continue to work together to ensure that it is cleaned up in a safe, thorough manner. Unfortunately, the bankruptcy proceedings associated with LyondellBasell have derailed the cleanup process, including thousands of hours of meetings to identify an acceptable cleanup plan.

We respectfully ask the Department of Justice to explain how the \$103 million settlement was reached and address questions raised by the community, including how this settlement is in the public's best interest and whether more money is available in the debtor estate that could be committed to this cleanup. We also ask that, if the Department cannot justify that the settlement is in the public's best interest that you extend the public comment period and petition for a delay in the April 23rd hearing so these issues can be resolved.

Thank you for your consideration of our concerns. We look forward to your prompt response.

*Sincerely,
Sen. Carl Levin
Sen. Debbie Stabenow
Rep. Fred Upton*

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Congress of the United States
Washington, DC 20515

April 20, 2010

Ms. Ignacia S. Moreno
Assistant Attorney General
Environment and Natural Resources Division
P.O. Box 7611
U.S. Department of Justice
Washington, DC 20044-7611

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Sincerely,



Carl Levin
U.S. Senator



Debbie Stabenow
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Fred Upton
Member of Congress